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UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

Vienghkone SIKEO, Petitioner-Plaintiff, v. John E. Cantu, Field Office Director, U.S. Immigration and Customs Enforcement, U.S. Department of Homeland Security; Kristi Noem, Secretary of U.S. Department of Homeland Security; and Pam Bondi, Attorney General of the United States, Warden, Florence Detention Center; in their official capacities; Respondents-Respondents.	Case 2:25-cv-03191-SHD (CDB) **PETITIONER'S REPLY IN SUPPORT OF MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION**

I. INTRODUCTION

Petitioner-Plaintiff, Mr. Vienghkone Sikeo ("Petitioner" or "Mr. Sikeo") through undersigned Counsel, respectfully submits this Reply in Support of his Motion for a Temporary Restraining Order and Preliminary Injunction. As this Court already found, Mr. Sikeo has shown that he has a substantial case on the merits, will suffer irreparable harm absent preliminary relief from this Court, and that the balance of hardships tips sharply in his favor. Dkt. 6 at 3. Respondents provide no factual or legal basis to disturb those findings. In fact, all the arguments presented by Respondents in their opposition only underscore the need for this Court's intervention. Dkt. 11 (Opp.). Respondents further fail to present any documentary evidence in support of their claims that (1) Petitioner was born in Laos and is a citizen of that country, or (2) that the U.S. Immigration and Customs Enforcement (ICE) has a valid travel document permitting him to enter to Laos, such that his removal there is reasonably foreseeable. Additionally, as the Ninth Circuit Court of Appeals recently held just last week, neither 8 U.S.C. § 1252(b)(9) nor 8 U.S.C. § 1252(a)(5) bar review of Petitioner's claims. *Ibarra-Perez v. United States*, No. 24-631, 2025 WL 2461663, at *9 (9th Cir. Aug. 27, 2025). The Court should therefore convert the temporary restraining order (TRO) issued on September 2 to a preliminary injunction (PI) enjoining Respondents from removing Petitioner absent notice and an opportunity to present his claim for relief from removal.

First, Respondents have not provided any evidence to demonstrate that Mr. Sikeo's removal is in fact reasonably foreseeable. Although Respondents now state Mr. Sikeo was born in Laos and is a citizen of Laos, they provide no documentation to confirm that claim or refute Mr. Sikeo's contention that, because he was born in Thailand to Laotian parents, he is in fact stateless and not a citizen of Laos. Additionally, Respondents have made no effort to prove that they have a valid travel document for Mr. Sikeo that would enable them to effectuate his physical removal to Laos. Furthermore, based on credible information and belief, another allegedly Laotian man on the removal flight on which Mr. Sikeo was scheduled to be removed on September 2, 2025, was not actually removed to Laos. Instead, after the flight landed on a stopover in Romania, that noncitizen was deplaned and remains detained in Romania today

because ICE did not in fact have a travel document that would allow him to enter Laos. *See* Declaration of Lorena C. Castillo (Castillo Decl.) dated Sept. 5, 2025. At a minimum, given the significant evidentiary disputes, it remains an open factual question whether Mr. Sikeo's removal to Laos is reasonably foreseeable.

Second, neither 8 U.S.C. § 1252(b)(9) nor 8 U.S.C. § 1252(a)(5) bar review because Petitioner is *not* challenging his removal order, and his claims cannot be presented in a petition for review. As the Ninth Circuit has made clear, district courts in habeas "have jurisdiction to review [petitioner's] purely legal arguments challenging ICE's removal to [a third country] without providing any process that would have allowed him to present evidence supporting his fear of removal to that country." *Ibarra-Perez*, No. 24-631, 2025 WL 2461663, at *9. That is precisely the challenge that Mr. Sikeo brings here. Further, when a petitioner "challenges ICE's actions taken after his removal proceedings before the IJ and BIA had ended" these jurisdictional bars do not apply because [Petitioner] does not seek review of his removal order." *Id.* A petition for review does not cover these types of claims, and case law explicitly states that these types of collateral challenges to third-country removals and the requirements of due process before any such removal are fully within this Court's jurisdiction. This Court should follow the Ninth Circuit's Ibarra decision. *See also* Castillo Decl. at Ex. A (additional District Court decisions finding similar claims reviewable).

Third, if Petitioner is unable to have his claim be adjudicated and decided on the merits before he is removed, Petitioner would suffer irreparable harm in the form of deprivation of his constitutional rights, removal to a country where he fears harm and is not a citizen, and potentially permanent separation from his fiancée and other family members in the United States.

Finally, the balance of the equities and the public interest favor granting a preliminary injunction. Any burden on the government in providing Mr. Sikeo notice and process before effectuating his removal is *de minimis* and clearly outweighed by the substantial harm established in this case.

For all the foregoing reasons, Petitioner respectfully requests the Court convert the TRO into a PI.

II. ARGUMENT

A. NEITHER 8 U.S.C. § 1252(g) NOR § 1252(a)(5) BAR REVIEW

Section 1252(g) applies only to three discrete actions: a "decision or action" to "*commence* proceedings, *adjudicate* cases, or *execute* removal orders." *Reno v. Am.-Arab Anti-Discrimination Committee (AADC)*, 525 U.S. 471, 482 (1999); *see also Jennings v. Rodriguez (Rodriguez IV)*, 583 U.S. 281, 294 (2018). The Ninth Circuit has consistently held that "§1252(g) should be interpreted narrowly." *Sied v. Nielsen*, 2018 WL 1142202, at *21 (N.D. Cal. Mar. 2, 2018) (citing *U.S. v. Hovsepian*, 359 F.3d 1144, 1155 (9th Cir. 2004) (en banc)). "Section 1252(g) does not divest courts of jurisdiction over cases that do not address prosecutorial discretion and address a purely legal question, which does not challenge the Attorney General's discretionary authority." *Id.* Just last week, the Ninth Circuit confirmed that "we have been clear that § 1252(g) does *not* prohibit challenges to unlawful practices merely because they are in some fashion connected to removal orders." *Ibarra-Perez*, No. 24-631, 2025 WL 2461663, at *7 (emphasis added)

Contrary to Respondents' argument, Opp. at 3–5, Petitioner does not contest the execution of his removal order. Like the noncitizen in *Ibarra-Perez*, "[h]e does not claim, for example, that ICE should have delayed his removal or exercised its discretion not to remove him. Instead, he challenges ICE's separate decision about *where* to send him." *Ibarra-Perez*, No. 24-631, 2025 WL 2461663, at *7. As explained in his motion, Mr. Sikeo objects to the lack of notice and process prior to the execution of his removal order to a country where, contrary to Respondents' claims, he is not a citizen (as he is stateless). *See* Castillo Decl. at Ex. C (documents showing Petitioner was born in Nampho (Nam Phong) refugee camp, which is located in Thailand).[1] The Ninth Circuit has clearly held that such a challenge is not barred by 1252(g). *Ibarra-Perez*, No. 24-631, 2025 WL 2461663, at *8; *see generally Aden v. Nielsen*, 409 F. Supp. 3d 998, 1005–06 (W.D. Wash. 2019).

Mr. Sikeo's re-detention claims are similarly not barred by § 1252(g). He merely requests

[1] Hmong Story, Legacy Project, https://www.hmongstorylegacy.com/nam-phong-refugee-camp (accessed Sept. 5, 2025).

that he be provided with notice and a hearing before a neutral decisionmaker regarding whether his re-arrest and re-incarceration would be justified. Dkt. 4. These claims challenge only his re-detention, and such claims are not barred by § 1252(g). Castillo Decl. at Ex. A (*Hernandez Escalante v. Noem, et al.*, No. 9:25-CV-00182-MJT, Dkt. 31 (E.D. Tx. Aug. 2, 2025), and *Yuhua Yang v. Kaiser, et al.*, No. 2:25-cv-00205-DAD-AC, Dkt. 16 (E.D. Cal. Aug. 19, 2025)); *see also Garcia v. Andrews*, No. 2:25-cv-01884-TLN-SCR, 2025 WL 1927596, *1 n.1 (E.D. Cal. Jul. 14, 2025) ("Petitioner's claim is not a challenge to a removal order but rather, that his re-detention is unconstitutional. As such, § 1252(g) is inapplicable[.]"); *Nak Kim Cheuen v. Marin*, No. 17-cv-01898-CJC-GJS, 2018 WL 1941756, at *4 (C.D. Cal. Mar. 26, 2018) (same).

Similarly, 8 U.S.C. § 1252(a)(5) does not bar review. There is a "strong presumption that Congress intends judicial review of administrative action." *Bowen v. Mich. Acad. of Family Physicians*, 476 U.S. 667, 670 (1986). By its terms, § 1252(a)(5) only bars challenges to "an order of removal." It "does not eliminate the ability of a court to review claims that are 'independent of challenges to removal orders.'" *Martinez v. Napolitano*, 704 F.3d 620, 623 (9th Cir. 2012) (citation omitted). Petitioner challenges ICE's decision to re-arrest and re-incarcerate him without first providing a constitutionally compliant hearing before a neutral adjudicator. This has nothing to do with his removal order nor the facts surrounding his removal order. This Court's inquiry therefore has nothing to do with his removal order, as other district courts have found. See Castillo Decl. at Ex. D (*Sun v. Santacruz, et al.*, No. 5:25-cv-02198, Dkt. 13 (C.D. Cal. Aug. 25, 2025); *see also Aden*, 409 F. Supp. 3d at 1006 (challenge to DHS's attempts, outside of removal proceedings, to remove petitioner to a third country not barred by §1252(a)(5)).

B. MR. SIKEO'S DETENTION IS NOT AUTHORIZED BY 8 U.S.C. § 1231(A)(6) BECAUSE HIS REMOVAL IS STILL NOT FORESEEABLE[2]

[2] Petitioner seeks a *prohibitory* injunction that merely maintains the status quo. Prohibitory injunctions prevent a party from taking a particular action and "preserve[s] the status quo pending a determination of the action on the merits." *Chalk v. U.S. Dist. Ct. Cent. Dist. of Cal.*, 840 F.2d 701, 704 (9th Cir. 1988). "The status quo ante litem refers not simply to any situation before the filing of a lawsuit, but instead to the *last uncontested status* which preceded the pending controversy." *GoTo.com, Inc. v. Walt Disney, Co.*, 202 F.3d 1199, 1210 (9th Cir. 2000) (emphasis added); *see also Al Otro Lado v. Wolf*, 497 F. Supp. 3d 914, 925 (S.D. Cal. 2020). Here, the status quo is Petitioner living at liberty, exercising his right to freedom for the past sixteen years without fear of removal to a third country he has never known. Even if the Court found Petitioner were

Contrary to Respondents' claim, Mr. Sikeo's re-detention is unconstitutionally indefinite, and Respondents have not provided any evidence—apart from the mere statement that the "Government determined it was significantly likely to be able to effectuate his removal to Laos in the reasonably foreseeable future," Opp. at 8—that Mr. Sikeo's detention is reasonably foreseeable.

Under clear Supreme Court precedent, post-final order detention is only authorized for a "period reasonably necessary to secure removal," a period that the Court has determined to be presumptively six months. *Zadvydas v. Davis*, 533 U.S. 678, 699–701 (2001). That said, detainees are entitled to be released even before six months of detention, as long as removal is not reasonably foreseeable. *See* 8 C.F.R. § 241.13(b)(1) (authorizing release after 90 days where removal is not reasonably foreseeable). Moreover, as the period of post-final-order detention grows, what counts as "reasonably foreseeable" must conversely shrink. *Zadvydas* at 701.

Although Respondents contend that Mr. Sikeo had been detained for 69 days, which is "well within the presumptively reasonable six-month period defined in *Zadvydas*," Opp. at 8, that is incorrect. Mr. Sikeo already previously was detained in an ICE immigration jail in 2009, which is when his post-final order detention clock began to run. 8 C.F.R. § 241.4(g)(1)(i); *Cordon-Salguero v. Noem*, No. 1:25-cv-01626-GLR (D. Md. June 18, 2025) ("The removal period begins on the date the Order of Removal becomes administrative[ly] final, 8 U.S.C. §1231(a)(1)(B)(i)…the statute contains no provisions for pausing, reinitiating, or refreshing the removal period after the 90-day clock runs to zero.")). As Respondents concede, Mr. Sikeo was released from ICE detention in 2009 on an Order of Supervision. Respondents' assertion that the removal period begins anew upon re-detention would lead to an absurd result: the government could detain individuals for a period of 90 days to 180 days upon the assertion that removal is reasonably foreseeable, release them for one day, then re-detain them the following day to restart the clock. In Mr. Sikeo's case, nearly sixteen years have passed since his post-final order detention clock began to run—far more than the presumptive six months.

More importantly, Mr. Sikeo's removal is not reasonably foreseeable in this case, and

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seeking a mandatory injunction, the record still overwhelmingly weighs in his favor.

Respondents have not provided evidence to actually rebut this. Respondents have not provided an actual copy of any travel document for Mr. Sikeo, or an indication of the validity of that supposed document that Respondents claim exists in their declaration. Dkt. 11-1, Declaration of Katherine Ormonde (Ormonde Decl). Respondents have also not provided any actual evidence as to whether he was born in Laos or is a citizen of that country. The declaration summarily states that Mr. Sikeo "is a citizen of Laos, born on October 1, 1983, in Laos." Ormonde Decl. ¶ 5. Respondents, however, provide *no documentary evidence* to substantiate this claim, nor have they indicated the source of their information. To the contrary, Mr. Sikeo was born in a refugee camp—Nam Phong—in Thailand to parents who are from Laos. Dkt. 1 ¶ 2; Exh. C–D; *see also* Castillo Decl. at Exs. C-D (additional documentation showing Mr. Sikeo was born in a refugee camp in Thailand). On information and belief, he is stateless and has never had citizenship in any country, including Laos. *Id.* Furthermore, recently received documents disclosed by the U.S. Department of Homeland Security (DHS) in response to prior counsel's Freedom of Information Act (FOIA) requests further corroborate that Mr. Sikeo was born in Thailand. Castillo Decl. at Exs. C-D. Notably, DHS's disclosure to the FOIA request does not contain any passport, birth certificate, or other documentary evidence to substantiate Respondents' claims that he was born in Laos.

Officer Ormonde's declaration also states that "Mr. Sikeo was issued a Travel Document by the government of Laos. After receiving the Travel Document, Mr. Sikeo was allocated for a removal flight to Laos on September 1, 2025." *Id.* ¶ 18. Again, Respondents provide *no documentary evidence* of a travel document for Mr. Sikeo indicating Laos will accept him. This is particularly concerning as another noncitizen on the removal flight on which Mr. Sikeo was placed on September 2, 2025, was supposed to be removed to Laos, but has since been held in Romania as ICE has been unable to effectuate his removal to Laos. Castillo Decl. ¶ 3. Based on credible information and belief, the travel document ICE procured for that noncitizen was invalid and did not actually authorize that individual's entry to Laos. *Id.* Without actual evidence of the travel document for Mr. Sikeo—which Respondents presumably could easily provide if it exists—there is no way for the Court to verify whether Mr. Sikeo could actually be removed to that country, particularly given the lack of any evidence that he is even a citizen of Laos. In sum,

aside from Respondents' bare contentions, there is no evidence that Mr. Sikeo's removal order is actually executable. This is the essence of the indefinite (and hence unconstitutional) nature of Mr. Sikeo's detention.

Thus, Mr. Sikeo's removal to Laos continues to be unconstitutionally indefinite because it is not reasonably foreseeable, and Respondents have not provided any evidence to show otherwise. At a minimum, these significant factual disparities require an evidentiary hearing

C. THE DUE PROCESS CLAUSE ENTITLES MR. SIKEO TO HAVING HIS POTENTIAL CLAIMS OF RELIEF ADJUDICATED

As an individual in this country, Petitioner has due process rights, including a protected liberty interest in his supervised release. This interest is not diminished by virtue of the supervised nature of his release, *Zadvydas*, 533 U.S. at 696 (recognizing the liberty interest of noncitizens on OSUPs), or by the fact that he is subject to an order of removal, *see, e.g.*, *Hoac v. Becerra*, 2025 WL 1993771 (E.D. Cal. July 16, 2025); *Phan v. Becerra*, 2025 WL 1993735 (E.D. Cal. July 16, 2025); *Zakzouk v. Becerra,* 25-CV-06254 (RFL), 2025 WL 2097470 (N.D. Cal. Jul. 26, 2025); *see also* Castillo Decl. at Ex. D (*Sun v. Santacruz, Jr., et al.*).[3]

Moreover, the idea that individuals released from imprisonment—even erroneously—are entitled to hearings prior to their re-incarceration is basic to our law. *See e.g.*, *Hurd v. District of Columbia*, 864 F.3d 671, 683 (D.C. Cir. 2017) (citing *Young v. Harper*, 520 U.S. 143, 152 (1997), *Gagnon v. Scarpelli*, 411 U.S. 778, 782 (1973), and *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972); *Gonzalez-Fuentes v. Molina*, 607 F.3d 864, 887 (1st Cir. 2010); *Johnson v. Williford*, 682 F.2d 868, 873 (9th Cir. 1982). It applies to prisoners released on parole, probation, and even due to judicial error. *Id.* It rests on the principle that people given freedom should not have it taken away without a pre-deprivation hearing where they can raise any legal objection to re-imprisonment.

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[3] The one case Respondents cite for the proposition that Petitioner does not have a protected interest, *Moran v. U.S. Dep't of Homeland Sec.*, 2020 WL 6083445, at *9 (C.D. Cal. Aug. 21, 2020), dealt with a facial (rather than as-applied) challenge to 8 C.F.R. §241.4(l) and did not involve a stateless noncitizen who was in compliance with the terms of their OSUP and whose removal was not reasonably foreseeable. For these reasons, as well as the fact that Petitioner has provided an overwhelming amount of case law strongly supporting his position, *Moran* is irrelevant.

Respondents' contention that *Morrissey* does not govern here has been flatly rejected by numerous district courts that have considered the issue. Indeed, "decisions defining the constitutional rights of prisoners establish a *floor* for the constitutional rights of [noncitizens in immigration custody]," who are "most decidedly entitled to *more* considerate treatment than those who are criminally detained." *Singh v. Andrews*, No. 1:25-CV-00801-KES-SKO (HC), 2025 WL 1918679, at *8 (E.D. Cal. July 11, 2025) quoting *Unknown Parties v. Johnson*, No. CV-15-00250-TUC-DCB, 2016 WL 8188563, at *5 (D. Ariz. Nov. 18, 2016) *aff'd sub nom. Doe v. Kelly*, 878 F.3d 710 (9th Cir. 2017) (cleaned up) (emphasis added); *see also Ortega v. Bonnar*, 415 F. Supp. 3d 963, 970 (N.D. Cal. Nov. 22, 2019) ("Given the civil context [of immigration detention], [petitioner's] liberty interest is arguably greater than the interest of parolees in *Morrissey*."); Castillo Decl. at Exs. A, D.

Here, ICE's regulatory authority to unilaterally re-detain Petitioner is proscribed by the Due Process Clause because it is well-established that individuals released from incarceration have a liberty interest in their freedom. *See Young*, 520 U.S. at 146-47; *Gagnon*, 411 U.S. at 781-82; *Morrissey*, 408 U.S. at 482-483; *Pinchi v. Noem*, --- F.Supp.3d ----, 2025 WL 2084921, *3 (N.D.Cal. July 24, 2025). Respondents' bizarre contention that Petitioner does not cite any authority for the proposition he is entitled to a pre-deprivation hearing, Opp. at 9, can be easily rejected by the Court, as Petitioner cited numerous district courts cases establishing exactly that. *See* Dkt. 4 at 5 (citing *See, e.g., J.P. v. Santacruz*, 8:25-cv-01640-FWS-JC, Dkt. 10 (C.D. Cal. July 28, 2025); *Rodriguez-Flores v. F. Semaia*, No. 2:25-cv-06900-JGB-JC, Dkt. 14 (C.D. Cal. Aug. 14, 2025); *Zakzouk*, No. 25-CV-06254 (RFL), 2025 WL 2097470, at *4; *Hoac*, No. 2:25-CV-01740-DC-JDP, 2025 WL 1993771, at *7; *Phan*, No. 2:25-CV-01757-DC-JDP, 2025 WL 1993735, at *7; *Guillermo M. R. v. Kaiser*, --- F.Supp.3d ----, 2025 WL 1983677, at *10 (N.D. Cal. July 17, 2025); *Pinchi v. Noem*, --- F.Supp.3d ----, 2025 WL 2084921, at *7 (N.D. Cal. July 24, 2025); *Ortega v. Kaiser*, No. 25-CV-05259-JST, 2025 WL 2243616, at *7 (N.D. Cal. Aug. 6, 2025); *Galindo v. Andrews*, 1:25-cv-00942-KES-SKO, Dkt. 20 (E.D. Cal. Aug. 20, 2025), *Escalante v. Noem*, 9:25-cv-00182-MJT-CLS, Dkt. 43 (E.D.Tex. Aug. 3, 2025)).

Petitoner's liberty interest is further heightened by the fact that he has a viable claim to

relief from removal, given the basis of his removal order is invalid, and he has filed a motion to reopen his case and restore his lawful permanent resident status that is currently pending before the Eloy Immigration Court. *See Chhoeun v. Marin*, 306 F. Supp. 3d 1147, 1161 (C.D. Cal. 2018) (petitioners, who had final orders of removal but had lived at liberty for years on OSUPs, entitled under due process to reasonable period of time to file motions to reopen now that they were on notice that they could be removed); *see also* Castillo Decl. ¶ 6. Petitioner had no such opportunity here—although he hired an attorney to investigate his legal claims as soon as he was suddenly re-detained in June 2025 sixteen years after being released from ICE custody, prior counsel took no action to reopen Petitioner's removal proceedings despite clear caselaw establishing that the legal basis for the order is now invalid. To protect his protected liberty interest, on the particular facts of Petitioner's case, due process required notice and a constitutionally compliant hearing *prior to any re-detention*.

Under the process Respondents maintain is lawful—which affords Petitioner no meaningful process whatsoever—ICE can re-detain him at any point. "This framework 'provides no opportunity to have a neutral party evaluate ICE's unilateral determination of the contested facts.'" Castillo Decl. at Ex. A (*Yang* at 12) (citing *Guillermo M.R.*, -- F. Supp. 3d. --, 2025 WL 1983677, at *7). Thus, the regulations are insufficient to protect her due process rights. After re-arrest, ICE again makes its own, one-sided custody determination and can decide whether the agency wants to hold Petitioner. 8 C.F.R. § 241.4(e)-(f). While Respondents cite 8 C.F.R. § 241.13 to claim that this regulation provides Petitioner the opportunity to submit evidence to show she will not be removed in the reasonably foreseeable future, Opp. at 7, Respondents fail to note that the regulations specify that noncitizens can only submit such evidence or information in the context of an interview promptly *after* their re-detention. For these reasons, the process espoused by Respondents carries the exceedingly high risk of deprivation, thus weighing in favor of converting Petitioner's TRO into a PI.

By contrast, the procedure that Petitioner seeks is standard for the government. It does not cause additional fiscal and administrative hurdles, and Respondents have not suggested otherwise. It would, however, provide Petitioner with safeguards to ensure his due process rights are

protected. Permitting Petitioner to remain free from custody until ICE assesses and demonstrates to a neutral adjudicator that his re-incarceration is justified and his removal is reasonably foreseeable is far *less* costly and burdensome for the government than detaining her. *Hernandez v. Sessions*, 872 F.3d 976, 996 (9th Cir. 2017).

Such a hearing is much more likely to produce accurate determinations regarding the reasonable foreseeability of his removal, and whether he otherwise poses a danger or flight risk. *See Chalkboard, Inc. v. Brandt*, 902 F.2d 1375, 1381 (9th Cir.1989) (the "risk of error is considerable when just determinations are made after hearing only one side"). "A neutral judge is one of the most basic due process protections." *Castro-Cortez v. INS*, 239 F.3d 1037, 1049 (9th Cir. 2001), *abrogated on other grounds by Fernandez-Vargas v. Gonzales*, 548 U.S. 30 (2006).

D. PETITIONER IS LIKELY TO SUFFER IRREPARABLE HARM IN THE ABSENCE OF A PI AND THE BALANCE OF EQUITIES AND THE PUBLIC INTEREST TIPS SHARPLY IN HIS FAVOR.

The likelihood of immediate irreparable harm is high, as shown by the instance of another alleged Laotian noncitizen on Mr. Sikeo's scheduled flight who is now indefinitely detained in Romania because his removal to Laos could not be effectuated. Because Petitioner is likely to succeed on the merits of his claim (or has at least raised serious questions), and that his claim is constitutional in nature, he has sufficiently demonstrated that he will suffer harm absent immediate injunctive relief. *See, e.g.*, *Pinchi*, 2025 WL 1853763, at *3; *Garcia v. Bondi*, 2025 WL 1676855, *3 (N.D. Cal. June 14, 2025); *Guillermo*, 2025 WL 1983677.

Here, Respondents ignore the concrete harms Mr. Sikeo will experience if removed from the United States without being provided a reasonable period of time to present fear-based claims in response to his third country removal and explore additional legal claims he may have. He risks being removed to a country where he lacks any status or connection whatsoever. If removed to Laos, a country where he was not born and to where Respondents have not produced a valid travel document, he would be banished to a country his parents not only had to flee but also a country he has never lived in nor recognized. If removed to Romania (like the other alleged Laotian man on the September 2 flight) or anywhere else in the world, the irreparable harm would be equally devastating.

"A plaintiff's likelihood of success on the merits of a constitutional claim also tips the merged third and fourth factors decisively in his favor." *Baird v. Bonta*, 81 F.4th 1036 1040 (9th Cir. 2023). If a PI were not granted, Respondents would effectively be granted permission to detain Petitioner in violation of Due Process. "The public interest and the balance of the equities favor 'prevent[ing] the violation of a party's constitutional rights.'" *Id.* (quoting *Melendres*, 695 F.3d at 1002).

Respondents do not challenge Petitioner's argument that the government "cannot reasonably assert that it is harmed in any legally cognizable sense by being enjoined from [statutory and] constitutional violations." *Zepeda v. INS*, 753 F.2d 719, 727 (9th Cir. 1983). Nor will Respondents be injured by an order requiring them to provide a pre-deprivation hearing. Such a hearing is constitutionally mandated under the circumstances, and the government is not injured by being held to the Constitution. *Id.*; *Zepeda*, 753 F.2d at 727.

E. MR. SIKEO IS NOT REQUIRED TO POST SECURITY

A plaintiff is not required to post security pursuant to Rule 65(c) of the Federal Rules of Civil Procedure when the court exercises its discretion to waive or reduce the bond requirement. Courts may waive the bond requirement when they conclude there is no realistic likelihood of harm to the defendant from enjoining their conduct. The Court has discretion to dispense with security requirement for preliminary injunction, or to request mere nominal security, where requiring security would effectively deny access to judicial review. *Save Our Sonoran, Inc v. Flowers*, 408 F.3d 1113 (9th Cir. 2005); *Cal. ex rel. Van De Kamp v. Tahoe Reg'l Planning Agency*, 766 F.2d 1319, 1325 (9th Cir.1985) (finding proper the district court's exercise of discretion in allowing environmental group to proceed without posting a bond), amended on other grounds, 775 F.2d 998 (9th Cir.); *Barahona–Gomez,* 167 F.3d at 1237 (determining $1,000 bond in class action not to be an abuse of discretion in light of the showing that "the vast majority of aliens[affected by class action] were very poor"). Here, it is established that there is no realistic likelihood of harm to the defendant from issuing the PI, as the Court already found in issuing a TRO. Dkt. 6 at 3. Should the Court find that security should be posted, Petitioner ask that it be set to a nominal amount.

III. CONCLUSION

For all the foregoing reasons, Petitioner respectfully requests that the Court convert his TRO into a PI.

Dated: September 5, 2025

Respectfully submitted,
/s/ Johnny Sinodis
/s/Zachary Nightingale
/s/ Lorena C. Castillo
Attorneys for Petitioners